

REMARKS

Claims 1-5 and 7-17 remain pending in the application. The inventions set forth by the pending claims are alleged not to meet the requirements of 35 U.S.C. §102(e) and/or § 103 as being anticipated by or unpatentable over Staiger (US 6,292,718). The applicants respectfully traverse the allegation and respond as follows.

THE CLAIMS MEET THE REQUIREMENTS OF PATENTABILITY

In determining whether the claims meet the requirements of patentability including § 102(e) and 103(a), the applicants' disclosure is properly relied upon to determine the meaning of terms used in the claims. While doing so, the perspective of the person of ordinary skill in the art must be considered, particularly with respect to claimed elements that are well known. In such cases, it is not necessary for the applicants to describe those elements in detail, and the element should be considered to include all art-recognized hardware or combination of hardware and software techniques for implementing that element. Furthermore, it is appropriate to give claims their broadest reasonable interpretation in light of the supporting disclosure. In *re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (emphasis added). Limitations appearing in the specification but not recited in the claim are not read into the claim. In *re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). See MPEP at § 2106.

The issue of patentability under § 103 raised by the Office action, and which the applicant must overcome, is whether Staiger renders unpatentable claims 5 and 17 under 35 U.S.C. § 103(a). To establish a *prima facie* case of obviousness, and hence

to find claims 1-15 unpatentable under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based upon applicant's disclosure. MPEP at § 2142.

With the requirements for patentability in mind, applicants claim vehicles and methods implemented within a vehicle comprising active networks. The applicants assert, supported by the Declaration under 37 C.F.R. § 1.132 of Juergen Reinold, that that an active network is known to the skilled artisan to include nodes capable of performing custom operations on the messages that pass through the nodes. An active network does not require a central server or computing resources. And, active network nodes are aware of the contents of messages transported and can participate in the processing and modification of the messages while they travel through the network. That is, an active network is a defined physical structure that is unlike other communication structures such as communication busses and/or passive networks. Moreover, the applicants clearly distinguish particular kinds of passive networks, such as bus architectures, in the background portion of the specification. Beginning at page 2, line 3 of the specification, the applicants explain that, in accordance with existing design philosophy, various communication bus structures for interconnecting control elements, sensors, actuators and like structures within vehicle have been used, but that these architectures suffer a number limitations. The applicants further explain, beginning at page 2, line 19 of the specification, that network structures have been incorporated in connection with bus architectures. These passive network structures do not provide sufficient reliability for vehicle functional requirements such as power train, suspension, airbag systems, and the like, and usage has been limited to applications wherein information technologies are added to the vehicle. Thus, as the applicants have explained, existing architectures have not met the needs of efficient, reliable integration of in-vehicle electronic technologies and plug-and-play upgradeability.

Clear from the foregoing discussion, the applicants have claimed a specific physical structure, namely an active network known to have particular characteristics, within a vehicle. This active network is not a bus architecture and is not a passive network or a combination of a passive network and a bus architecture or any other type of network structure than an active network structure. In light of the specification, the broadest reasonable interpretation of the term active network does not include bus structures and/or passive networks. For the claims to be anticipated or unpatentable, i.e., not to meet the requirements of § 102(e) or § 103(a), the prior art must teach or suggest each and every limitation contained in the claims, and particularly, in this case, must teach or suggest a vehicle including an active network. Because the prior art fails to teach or suggest this structure or methods employing such structures, claims 1-5 and 7-17 do meet the requirements of 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) and are patentable.

The Office action essentially admits that, unless the claims are read more broadly than the specification permits, the claimed vehicle and active network combination is not taught or suggested by the art and particularly by Staiger. Moreover, the applicants have pointed in the Reinold Declaration to the numerous and significant deficiencies of Staiger as a reference against the instant application and particularly as it relates to failing to describe active networks. It is only under what the applicants submit is an unreasonably broad interpretation of the term "active network," one not supported by the specification in that an active network is a known physical structure and that in addition the specification clearly describes what an active network is not, that the claims can be found to be unpatentable.

It is asserted that the applicants are arguing limitations not contained in the claims. The applicants submit the limitations they argue, the physical structure and function of the active network, are subsumed by the term itself. It is no more necessary to amend the claims to recite the physical structure of the active network to establish patentability, a known thing, than it would be necessary to recite each and every physical structure of the claimed vehicle in order that it be understood. Doing so is redundant. This simply is not an instance where the applicants are arguing structures contained in the specification but not in the claims, but instead the applicants are arguing the structures defined by the term active network.

CONCLUSION

In view of the above remarks, favorable re-consideration of this application and passage to issuance is respectfully requested. The examiner is invited to contact applicant's undersigned attorney with any questions regarding this response or the application as a whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

Respectfully submitted for,

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By:

A handwritten signature in black ink, appearing to read 'Anthony G. Sitko', is written over a horizontal line.

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